

**UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
LITTLE SNAKE FIELD OFFICE
DECISION RECORD**

**May 2012 - Colorado Competitive Oil & Gas Lease Sale
DOI-BLM-CO-N010-2012-0005-DNA**

Introduction:

It is the policy of the Bureau of Land Management (BLM) as derived from various laws, including the Mineral Leasing Act of 1920 and the Federal Land Policy and Management Act of 1976, to make mineral resources available for disposal and to encourage development of mineral resources to meet national, regional, and local needs.

The BLM Colorado State Office conducts a quarterly competitive lease sale to sell available oil and gas lease parcels. A Notice of Competitive Lease Sale, which lists lease parcels to be offered at the auction, is published by the BLM State Office at least 45 days before the auction is held. Lease stipulations applicable to each parcel are specified in the Sale Notice. The decision as to which public lands and minerals are open for leasing and what leasing stipulations may be necessary, based on information available at the time, is made during the land use planning process. Surface management of non-BLM administered lands overlaying federal minerals is determined by BLM in consultation with the appropriate surface management agency or the private surface owner.

In the process of preparing a lease sale the BLM State Office sends a draft parcel list to each field office where the parcels are located. Field Office staff then review the legal descriptions of the parcels to determine if they are in areas open to leasing; if appropriate stipulations have been included; if new information has become available which might change any analysis conducted during the planning process; if appropriate consultations have been conducted, and if there are special resource conditions of which potential bidders should be made aware. Once the draft parcel review is completed and returned to the State Office, a list of available lease parcels and stipulations is made available to the public through a Notice of Competitive Lease Sale (NCLS). Lease sale notices are posted on the Colorado BLM website (http://www.blm.gov/nm/st/en/prog/energy/oil_and_gas/lease_sale_notices.html). On rare occasions, additional information obtained after the publication of the NCLS may result in withdrawal of certain parcels prior to the day of the lease sale.

The following Determination of NEPA Adequacy (DNA) documents the review of the parcels offered in the May 2012 Competitive Oil and Gas Lease Sale that is under the administration of the Little Snake Field Office. It serves to verify conformance with the approved land use plan and provides the rationale for deferring or dropping parcels from a lease sale as well as providing rationale for attaching additional lease stipulations to specific parcels. The purpose of offering parcels for competitive oil and gas leasing is to allow private individuals or companies to explore for and develop oil and gas resources for sale on public markets. The sale of oil and gas leases is

needed to meet the growing energy needs of the United States public. Production of oil and gas resources on public lands contributes to decreasing the dependence of the United States on foreign energy sources, which is a BLM policy that complies with the Mining and Minerals Policy Act of 1970. Continued leasing is necessary to maintain options for production as oil and gas companies seek new areas for production or attempt to develop previously inaccessible or uneconomical reserves.

Decision:

It is my decision to implement the Proposed Action of the Environmental Assessment (EA), and to recommend three (3) parcels from the Little Snake Field Office (LSFO), as identified in DOI-BLM-CO-N010-2012-0005-DNA, be offered at the May 2012 - Colorado Competitive Oil & Gas Lease Sale. To ensure new mitigation measures that may be developed during the Colorado Northwest District Greater Sage-Grouse EIS are not precluded in priority habitats, all parcels (6164, 6174, 6182, and 6183) that are within Preliminary Priority Habitat (per WO IM No. 2012-043) are being deferred from the May 2012 Lease Sale at this time.

Rationale for Decision:

The decision to approve the proposed action is based upon the following: 1) conformance with the LSFO Resource Management Plan; 2) national policy; 3) agency statutory requirements; 4) relevant resource and economic issues; 5) application of measures to avoid or minimize environmental impacts; 6) meeting the purpose and need for the project. Additionally, it would defer offering parcels from the May 2012 sale that are within Preliminary Priority Habitat (per WO IM No. 2012-043) to ensure new mitigation measures that may be developed during the Colorado Northwest District Greater Sage-Grouse EIS are not precluded in priority habitats.

1. This decision is in conformance with the LSFO RMP.
2. It is the policy of the BLM as derived from various laws, including the Mineral Leasing Act (MLA) of 1920, as amended [30 U.S.C. 181 *et seq.*] and the Federal Land Policy and Management Act of 1976 (FLPMA), to make mineral resources available for disposal and to encourage development of mineral resources to meet national, regional, and local needs.
3. The decision is consistent with all federal, state, and county authorizing actions required for implementation of the Proposed Action.
4. Standard terms and conditions as well as special stipulations would apply. Lease stipulations (as required by 43 CFR 3131.3) were added to each parcel as identified by the Little Snake FO to address site specific concerns or new information not identified in the land use planning process.
5. The Proposed Action provides for the potential exploration and development of additional oil and gas resources to help meet the nation's current and expanding need for energy sources without creating the impacts associated with offering leases in sage-grouse core areas.

Consultation and Coordination:

BLM consulted with Colorado Parks and Wildlife and incorporated their recommendations. BLM also consulted with Uintah and Ouray Tribal Council, Colorado Native American Commission, Colorado State Historic Preservation Office.

Public Involvement and Comments:

Comments and BLM Responses: Audubon Colorado

- A conservative approach to protecting remaining grouse habitat is warranted pending completion of the National Planning Strategy. Deferring acreage overlapping with priority sage-grouse habitat is the appropriate decision at this time. Pending completion of the National Greater Sage-Grouse Planning Strategy, BLM should defer (or modify) all parcels overlapping with sensitive habitat until work is complete on range-wide conservation policies – including a technical review of the adequacy of applicable RMPs.

BLM Response: All parcels (6164, 6174, 6182, and 6183) that are within Preliminary Priority Habitat per WO IM No. 2012-043 are being deferred at this time.

- Deferral is appropriate as BLM considers promulgating new management policies to recover sage-grouse and habitat. The March 2010 USFWS decision that listing the Greater Sage-Grouse is “warranted but precluded,” establishes the urgent need to develop and implement substantive conservation measures between now and 2015, when the Service will reconsider the status of the bird. This finding clearly indicates that efforts to date, including the use of current timing and seasonal stipulations as proposed in May sale, are inadequate.

- ***BLM Response:*** All parcels (6164, 6174, 6182, and 6183) that are within Preliminary Priority Habitat per WO IM No. 2012-043 are being deferred at this time.

- Additional new information and the potential for direct, indirect and cumulative impacts under NEPA require deleting or deferring core area parcels. Deferring the core area parcels is necessary in light of new information and the potential for significant direct, indirect and cumulative impacts of the leasing decision in the context of other reasonably foreseeable impacts.

BLM Response: All parcels (6164, 6174, 6182, and 6183) that are within Preliminary Priority Habitat per WO IM No. 2012-043 are being deferred at this time.

Comments and Responses: The Wilderness Society, Rocky Mountain Wild, and Colorado Environmental Coalition

- New Sage-Grouse Guidance:
The BLM Washington Office issued Greater Sage-Grouse Interim Management Policies and Procedures (IM 2012-043):

The Interim Management Policies and Procedures call for more protections for the greater sage-grouse than the LSFO RMP. The policies and procedures in the interim management document are based on “A Report on National Greater Sage-Grouse Conservation Measures” dated December 21, 2011, and produced by the Sage-grouse National Technical Team. This document represents the best available science on Greater Sage-Grouse management and conservation. The LSFO DNA must determine “is the existing analysis valid in light of any new information or circumstances?” IM 2012-043 and the Technical Team report present new information and circumstances. This new information and circumstances create a situation where BLM should re-analyze certain parcels to determine if they are still appropriate for leasing.

BLM Response: All parcels (6164, 6174, 6182, 6183) that are within Preliminary Priority Habitat per WO IM No. 2012-043 are being deferred at this time.

- BLM Must Evaluate Additional Measures to Protect Priority Sage-Grouse Habitat

As discussed above, BLM must consider alternatives to address “unresolved resource conflicts” in leasing EAs. IM 2010-117 lists several measures that BLM should evaluate in those alternatives, including modifying the boundaries of proposed lease parcels. IM 2010-117 at III.F. Because parcels 6163, 6164, 6171, 6174, 6175, 6182, and 6183 overlaps with high and/or medium priority sage-grouse habitat, and because the existing RMP does not adequately protect that habitat, BLM should modify and exclude priority sage-grouse habitat from the boundaries of these parcels.

BLM Response: All parcels (6164, 6174, 6182, 6183) that are within Preliminary Priority Habitat per WO IM No. 2012-043 are being deferred at this time. Parcels 6163, 6171, 6175 are not within Preliminary Priority Habitat and the LSFO has determined that these parcels are appropriate to lease with stipulations developed to protect Greater Sage-Grouse in the LSFO RMP (October 2011). All three parcels have either a 1% or 5% disturbance threshold stipulation designed to reduce fragmentation of sagebrush habitats.

- The leasing decision is tiered to an improper RMP NEPA process:

The Environmental Impact Statement (EIS) supporting the Little Snake Field Office Resource Management Plan (RMP) is in violation of NEPA. The leasing of parcels 6163, 6164, 6171, 6174, 6175, 6182, and 6183 are examples of how the underlying NEPA process as applied violates the law. The NEPA analysis supporting the RMP and this leasing decision is invalid for the following reasons:

THE BLM MUST ADEQUATELY ADDRESS EXPERT COMMENTS ON THE GREATER SAGE-GROUSE CONSERVATION MEASURES PROPOSED IN THE PLAN. (See exhibit 1, p. 2; exhibit 2, pgs. 9 - 18)

BLM Response: All parcels (6164, 6174, 6182, and 6183) that are within Preliminary Priority Habitat per WO IM No. 2012-043 are being deferred at this time.

THE DECISION IS INCONSISTENT WITH THE POLICIES OF THE COLORADO DIVISION OF WILDLIFE AND THEREFORE VIOLATES FLPMA. (See exhibit 1, p. 7)

THE BLM MUST ENSURE THE SCIENTIFIC INTEGRITY OF ITS NEPA ANALYSIS. (See exhibit 1, p. 8; Exhibit 2, pgs. 9-18)

NEPA REQUIRES ANALYSIS OF THE EFFECTIVENESS OF MITIGATION MEASURES. (see exhibit 1, pg. 9; exhibit 2, p. 19)

THE PROPOSED PLAN CONFLICTS WITH BLM IM 2010-071 AND BLM IM 2010-117. (see exhibit 1, pg. 11)

BLM HAS VIOLATED FLPMA BY FAILING TO GIVE PRIORITY TO THE DESIGNATION AND PROTECTION OF AREAS OF CRITICAL ENVIRONMENTAL CONCERN. (see exhibit 1, pg. 12)

BLM HAS VIOLATED NEPA BY FAILING TO TAKE A 'HARD LOOK' AT THE DIRECT, INDIRECT AND CUMULATIVE IMPACTS OF THE PROPOSED PLAN ON SPECIAL STATUS SPECIES AND HAS FAILED TO MEET ITS OBLIGATIONS WITH RESPECT TO SPECIAL STATUS SPECIES. (see exhibit 1, pg. 12)

For the reasons outlined in our protest and comments to the Little Snake Field office RMP the current leasing of parcels 6163, 6164, 6171, 6174, 6175, 6182, and 6183 violates NEPA, FLPMA, and is arbitrary, capricious, and not in accordance with the law.

BLM Response: The 1920 Mineral Leasing Act, as amended, authorizes the Secretary of the Interior to lease oil and gas resources on all public domain and acquired land. To lease federal oil and gas, a decision must be reached by the BLM as to which lands to lease. If a decision is reached to lease a parcel of land, additional actions will be required before on the ground operations begin. For each action, conformance with the RMP and compliance with NEPA is certified. Lease operations must conform to the decisions in the RMP.

The BLM elected to eliminate from detailed study a Resource or Planning Area wide No Leasing Alternative. A No Lease decision is made where it is determined that oil and gas leasing is not in the public's interest. A No Lease decision is reached only after careful consideration of conflicting resource values and uses and environmental consequences. No Leasing was considered and analyzed on a site-specific basis as part of the analyzed alternatives in the 1991 FEIS. Where it was determined that even the most restrictive mitigation available (No Surface Occupancy) would not adequately mitigate conflicts or environmental consequences, which could indicate that leasing is not in the public's interest, a No Leasing decision was considered.

Restrictions are applied to field operations by federal regulation, based on all applicable laws and Section 6 of the lease instrument. Federal regulations are found in CFR, Part 43 sub-part 3100. These regulations are mandatory and give the Authorized Officer authority to determine how field operations are conducted. Operations which fall within the jurisdiction of other federal or state and local agencies may also be field inspected by those agencies.

LSFO will conduct a site-specific NEPA analyses when exploration or drilling activities are proposed. The NEPA document review procedures help to assure identified mitigation measures will prevent undue and unnecessary degradation of the leased lands.

All proposed oil and gas development is evaluated for potential impacts to BLM sensitive species, as required by BLM policy. If any special status species is identified in the Little Snake Field Office, it is protected through no-surface-occupancy stipulations and any other actions needed to prevent its deterioration and allow its recovery. The LSFO staff regularly communicates with the USFWS, CDOW, CNHP, USGS, NRCS, and other “qualified” sources. Specific mitigation is applied on a site by site basis at the time of development.

The alternatives analyzed and environmental impacts addressed in the 1991 Colorado Oil and Gas Leasing Development FEIS, in our judgment, adequately address current environmental concerns, interests, and resource values including sensitive species. Environmental impacts are addressed again at a site-specific level upon receiving oil and gas Applications for Permit to Drill.

Oil and gas leasing in the Little Snake Field Office remains within the reasonably foreseeable development projections as described in Appendix B and summarized in Chapter 2 of the 1991 Colorado Oil and Gas Leasing and Development FEIS. Cumulative impacts were analyzed for such development and not considered significant because of the small area of permanently disturbed area (Chapter 4, Page 4-29).

- BLM Must Evaluate Additional Measures to Protect Columbian Sharp-Tailed Grouse Habitat. Parcels being recommended for leasing contain Columbian sharp-tailed grouse habitat, including winter habitat.

BLM Response: Parcels 6174, 6171, 6163 and 6164 provide habitat for Columbian sharp-tailed grouse. Parcels 6164 and 6174 are being deferred for Greater Sage-Grouse concerns. Parcels 6163 and 6171 are recommended for leasing at this time.

The alternatives analyzed and environmental impacts addressed in the LSFO RMP Revision and EIS (ROD October 2011), in our judgment, adequately address current environmental concerns, interests, and resource values including sensitive species. Environmental impacts are addressed again at a site-specific level upon receiving oil and gas Applications for Permit to Drill.

All proposed oil and gas development is evaluated for potential impacts to BLM sensitive species, as required by BLM policy. If any special status species is identified in the Little Snake Field Office, it is protected through no-surface-occupancy stipulations and any other actions needed to prevent its deterioration and allow its recovery. Timing limitations are attached to leases in sharp-tailed grouse habitat where appropriate, and disturbance thresholds to prevent fragmentation are being implemented to protect important sagebrush habitats.

Comments and Response: Colorado Parks and Wildlife

Columbian Sharp-tailed Grouse Production Areas

Moffat County: **Lease parcel 6174:** Sec. 26: Lot 3. Withdraw/defer. Active lek.

BLM Response: This Parcel is being deferred due to Greater Sage-Grouse concerns.

Designated Colorado River Cutthroat Trout Habitat

Rio Blanco County: **Parcel 6164** All Sec. 15,16; Sec. 14: NE,W2,W2SE; Sec. 22: NWNE,NENW,W2NW; should have WR-CSU-06

Moffat County: **Parcel 6163** All should have CO-28 and or WR-CSU-06
Parcel 6171 Sec. 22. E2 Lots 14,20,22; Sec. 33: Lot 12,13,16,24,26. Should have CO-28
Parcel 6174 Sec. 35 Lot 2; Should have CO-28 (conservation waters)

Also, CPW recommends no surface disturbance within 300 feet of the ordinary high water mark of any Designated Cutthroat Trout Stream Habitat.

Need TL for spawning fish ??

BLM Response: Parcels 6164 and 6174 are being deferred due to Greater Sage-Grouse concerns. CO-28 was added to Parcels 6163 and 6171 to address CPW's concerns.

Elk Winter Concentration Areas

Moffat County: **Parcel 6163** All Should have CO-09
Parcel 6174 All Should have CO-09
Parcel 6175 All Should have CO-09
Parcel 6182 All Should have CO-09 or WR-TL-08
Parcel 6183 All Should have WR-TL-08 or CO-09

BLM Response: Parcels 6174, 6182 and 6183 are being deferred due to Greater Sage-Grouse concerns. A timing limitation to protect wintering elk was attached to Parcels 6163 and 6175 to address CPW's concerns and to be consistent with updated mapping.

Greater Sage-Grouse Lek

Moffat County: **Lease parcel 6182** Sec. 7: E2SW Should have NSO within 0.6 miles of lek.

BLM Response: This Parcel is being deferred due to Greater Sage-Grouse concerns.

Greater Sage-Grouse Production Area

Moffat County: **Lease parcel 6163** All should have CO-30/GGNCA-15 and should have limited surface disturbance March 1 to June 30 within 4 miles of lek
Parcel 6175 Sec. 19: SENW CO-30/GGNCA-15 and should have limited surface disturbance March 1 to June 30 within 4 miles of lek
Parcel 6182 Sec. 21: SW should have CO-30/GGNCA-15 and should have limited surface disturbance March 1 to June 30 within 4 miles of lek
Parcel 6183 All should have CO-30/GGNCA-15 and should have limited surface disturbance March 1 to June 30 within 4 miles of lek

BLM Response: Parcels 6182 and 6183 are being deferred due to Greater Sage-Grouse concerns. A timing limitation to protect nesting Greater Sage-Grouse and disturbance thresholds are already attached to Parcels 6163 and 6175 (See attachment C).

Mule Deer Critical Winter Range

Moffat County: **Parcel 6163** All CO-09
Parcel 6164 Sec. 16 W1/4 should have WR-TL-08
Parcel 6174 All. Should have CO-09
Parcel 6184 All. Should have WT-TL-08
Parcel 6183 All Should have WR-TL-08 or CO-09

BLM Response: Parcels 6164, 6174 and 6183 are being deferred due to Greater Sage-Grouse concerns. Parcel 6163 contains a timing limitation to protect wintering mule deer (See Attachment C). Parcel 6184 is being analyzed by WRFO.

Pronghorn Antelope Winter Concentration

Moffat County: **Parcel 6183** All Should have WR-TL-08 or CO-09

BLM Response: Parcel 6183 is being deferred due to Greater Sage-Grouse concerns.

White-Tailed Prairie Dog Overall Range

Moffat County: **Parcel 6183** All Should have LS-13TL from March 1-June 15 to protect prairie dog dens and dependant young.

CSU- Preconstruction survey active colonies may be required; avoid direct disturbance to active colonies when possible.

BLM Response: This Parcel is being deferred due to Greater Sage-Grouse concerns.

Comments and Response: Carmony Exploration, LLC

Operator is concerned that parcel that they have submitted Expression of Interest for is not included in this lease sale. Parcel was deferred during the February 2009 and November 2009 Oil and Gas Lease Sales.

BLM Response: *Previously deferred parcels will be addressed in future lease sales.*

Plan Consistency:

LAND USE PLAN (LUP) CONFORMANCE REVIEW: The proposed action was reviewed for conformance (43 CFR 1610.5, BLM 1617.3) with the following plan:

Name of Plans: Little Snake Resource Management Plan and Record of Decision

Date(s) Approved: October 2011

Results: The Proposed Action is in conformance with the LUP because it is specifically provided for in the following LUP goals, objectives, and management decisions as follows:

Allow for the availability of the federal oil and gas estate (including coalbed natural gas) for exploration and development. Objectives for achieving these goals include:

- Identify and make available the federal oil and gas estate (including coalbed natural gas) for exploration and development.
- Facilitate reasonable, economical, and environmentally sound exploration and development of oil and gas resources (including coalbed natural gas).

Section/Page: Section 2.13 Energy and Minerals/ page RMP-36

Authorities:

The authority for this decision is contained in 43 CFR 3100.

Compliance and Monitoring:

No monitoring would be required in the offering of the lease parcels for sale. Should the parcels be developed, monitoring may be required and would be analyzed under future National Environmental Policy Act (NEPA) documentation.

Terms/Conditions/Stipulations: All parcels are subject to standard lease notices 1-3 and the Special Lease Stipulation for cultural resources. They are also subject to the Washington Office: Threatened and Endangered and Sensitive Species Stipulation (included within Instruction Memorandum No. 2002-174); the Migratory Bird Species-Interim Management Guidance Policy (included within Instruction Memorandum (IM) No. 2008-050). Individual parcels are subject to parcel specific stipulations for wildlife resources, paleontological or cultural resources, and conflicting use protection, such as coal mining. Refer to Attachments A, B, and C in the DNA for the actual stipulations and lease notices applied to a given parcel.

Additionally, there would be a recommendation to the State Director to defer offering six (6) parcels containing approximately 3652.4 acres from the May 2012 sale that are within Preliminary Priority Habitat (per WO IM No. 2012-043) to ensure new mitigation measures that may be developed during the Colorado Northwest District Greater Sage-Grouse EIS are not precluded in priority habitats.

The decision of the State Director may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and Form 1842-1. If an appeal

is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from your receipt of this decision. The appellant has the burden of showing that the Decision appealed from is in error.

If you wish to file a petition (pursuant to regulation 43 CFR 3165.4(c)) for a stay of the effectiveness of this Decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. A copy of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied;
2. The likelihood of the appellant's success of the merits;
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

Deputy State Director

Date

Energy, Lands, and Minerals